In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 1070

SAMUEL JOSEPH GIORDANO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

Petitioner and a co-defendant, Eugene Ellsworth Ayotte, were convicted in the United States District Court for the Eastern District of Michigan of concealment of assets of a bankrupt estate and conspiracy to conceal such assets, in violation of 18 U.S.C. 152 and 371, respectively. The court of appeals affirmed on December 4, 1967 (Pet. App. 31-39). Petitioner alone filed a petition for a writ of certiorari on January 31, 1968.

We advise the Court that a conversation of petitioner was overheard by means of an electronic device

which was installed by a trespass upon a commercial establishment owned by one of his acquaintances who was believed to be engaged in organized criminal activity.* Under the *per curiam* opinion in *Kolod et al.* v. *United States*, No. 133, decided January 29, 1968, this case should be remanded to the district court for further proceedings. As set forth in the motion for modification submitted in *Kolod et al.* v. *United States* No. 133, we believe that the order of remand should provide that the record of electronic surveillance be submitted for *in camera* inspection to the district judge, who may then direct such further proceedings as he finds warranted.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

FEBRUARY 1968.

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* Co-defendant Ayotte, who is presently incarcerated on another conviction, will be promptly notified of the above facts through his counsel.

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